

Attorney's Docket: 2003DE410

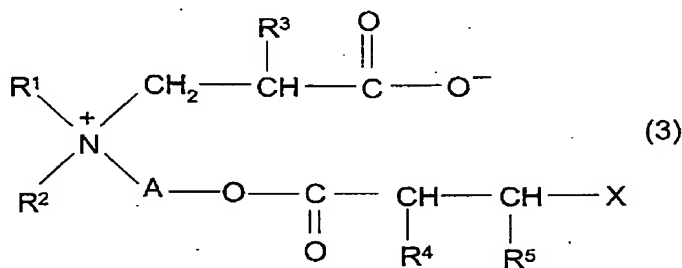
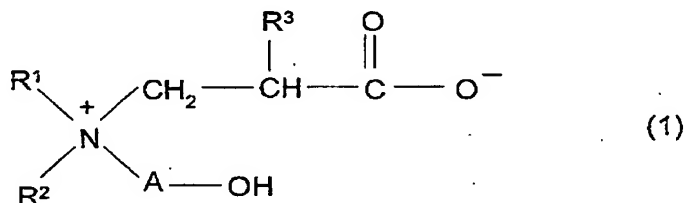
Serial No.: 10/783,153

Response to Office Action mailed January 2, 2008

## REMARKS

The Office Action mailed January 2, 2008, has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. Reconsideration of the present Application in view of the following remarks is respectfully requested.

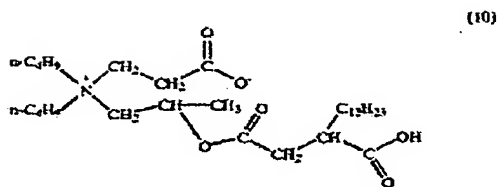
Claim 9 was rejected under 35 U.S.C. § 102(e) as anticipated by U.S. patent No. 6,452,030 to Chosa et al. The rejection of claim 9 under 35 U.S.C. § 102(e) as anticipated by U.S. patent No. 6,452,030 to Chosa et al. (hereinafter referred to as the '030 Patent) should be withdrawn for the reason that the compounds of the '030 Patent are not the same as the compounds of the instant invention. The '030 Patent discloses a hydroxyl group-containing betaine compound and a long chain alkyl group containing betaine compound having the following structures of formula (1) and formula (3):



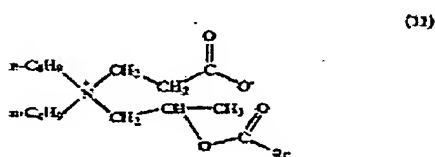
The '030 Patent discloses the synthesis of the following compounds in Examples 4-8, which are depicted as formulae 10-14, respectively and reproduced from the '030 Patent hereinbelow.

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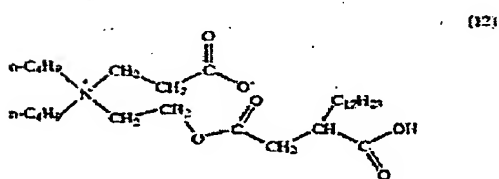
Example 4



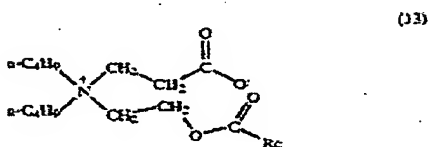
Example 5



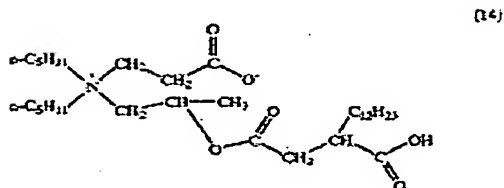
Example 6



Example 7



Example 8

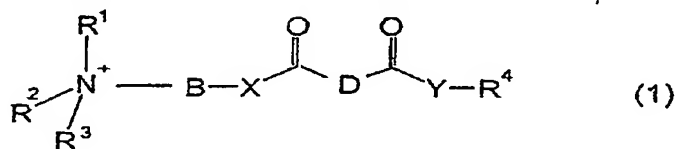


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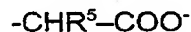
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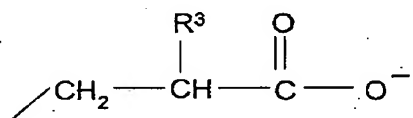
Applicant's claimed structure is based on Applicant's formula (1):



In Applicant's formula (1), the residual  $\text{R}^3$  can be



which differs from the above formulae (10) – (14) of the '030 patent wherein  $\text{R}^3$  is shown as



This residue can also be represented as



Clearly, the above residue of the '030 Patent is not the same as Applicant's claimed structure which is  $-\text{CHR}^5-\text{COO}^-$  (one methylene group between the N-atom and the carboxylic acid group) which does not contain the additional methylene group ( 2 methylene groups between the N atom and the carboxylic acid group) required by the '030 Patent and shown in formulae (10) – (14) of the '030 Patent. The residue of the instant invention corresponds to an  $\alpha$ -substituted carboxylic acid, and the '030 Patent discloses in the Specification and in Examples 4-8 in particular that the residue is an  $\alpha$ ,  $\beta$ -substituted carboxylic acid.

Thus, the compound of the '030 patent is different from the compound of Applicant's invention. Regarding the rejection under 102(e), it is fundamental that all elements of a claim must be found united in the same way to perform the identical function for a reference to establish anticipation. Unless all of the same elements are found in exactly the same situation and united in the same way to perform the identical function in a single prior art reference, there is no anticipation. Therefore, the rejection of claim 9 as under 35 U.S.C. §102(e) as anticipated by Chosa et al. should be withdrawn for the

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reason that the compounds of the '030 Patent are not the same as the compounds of the instant invention.

It is respectfully submitted that, in view of the above remarks, the rejections under §102 should be withdrawn and that this application is in a condition for an allowance of all pending claims. Accordingly, favorable reconsideration and an allowance of all pending claims are courteously solicited.

An early and favorable action is courteously solicited.

Respectfully submitted,



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